

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States Courts  
Southern District of Texas  
FILED

OCT 21 2019

David J. Bradley, Clerk of Court

United States of America )

v. )

Miguel Angel Rivera )

Case No. )

H19-1981M

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 29, 2019 in the county of Harris in the  
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 2252A (a)(2)

Receipt of child pornography

18 U.S.C. § 2252A (a)(5)(B)

Possession of child pornography

This criminal complaint is based on these facts:

See attached Affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Robert J. Guerra, FBI Special Agent

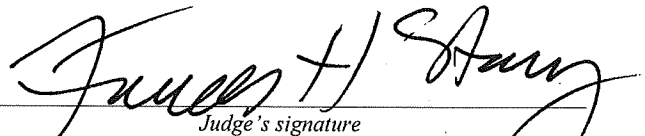
Printed name and title

Sworn to before me and signed in my presence.

Date:

October 21, 2019

City and state:

Houston, Texas

Judge's signature

Frances H. Stacy, USMJ

Printed name and title

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Robert J. Guerra, being duly sworn, hereby depose and state the following:

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), assigned to the Special Agent in Charge (SAC), in Houston, Texas. I have been so employed since November 2005. As part of my daily duties as an FBI agent, I am assigned to the FBI Houston Child Exploitation Task Force which, among other things, investigates criminal violations relating to child exploitation and child pornography, including violations pertaining to the illegal production, distribution, receipt and possession of child pornography, in violation of 18 U.S.C. §§ 2251, 2252A and 2252A et seq. I have received training in the areas of child pornography and child exploitation. I have had the opportunity to observe and review numerous examples of child pornography in all forms of media including computer media. Child Pornography, as defined in 18 U.S.C. § 2256, is:

“any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where – (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; . . . [or] (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.” For conduct occurring after April 30, 2003, the definition also includes “(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from that of a minor engaging in sexually explicit conduct.”

2. This Affidavit is made in support of a criminal complaint charging Miguel Angel RIVERA with violating 18 U.S.C. § 2252A(a)(5)(B) and 2252A(a)(2), the possession and receipt of child pornography within the Southern District of Texas.
3. Because this Affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation, I have set forth only those facts that I believe are necessary to establish probable cause that evidence of violation of 18 U.S.C. § 2252A(a)(5)(B) occurred on or about , August 30, 2019, and violation of 18 U.S.C. § 2252A(a)(2) on or about August 29,

2019, have been committed by Miguel Angel RIVERA. Throughout this Affidavit, statements made by sources of information and other witnesses are set forth in substance and in pertinent part unless otherwise indicated. Further, the facts and circumstances of this investigation have been set forth in pertinent part for the purpose of this Affidavit and do not include the complete factual history of this investigation, or all of its details.

**Factual Basis to Support Criminal Complaint**

4. On June 14, 2019, SA Robert J. Guerra, FBI Houston Division, using a computer located in Houston, Texas, connected to the Internet conducted an online session involving the IP address 73.32.170.41. During this session, SA Guerra utilized a law enforcement tool that allows single-source downloads from the BitTorrent P2P network.
5. During the undercover session which started on June 14, 2019, at 20:22:34 (GMT -05:00) and ended in June 15, 2019, at 20:26:26 (GMT -05:00), SA Guerra conducted a single-source download from IP address 73.32.170.41. SA Guerra downloaded over 20 image files from IP address 73.32.170.41. Several of the image files were contact sheets containing between 2 and 16 images per sheet.
6. SA Guerra has reviewed the downloads obtained from IP address 73.32.170.41 and believes, based on his training and experience, that at least 25 single image files obtained from IP address 73.32.170.41, during the session specified above, depict child pornography as defined in Title 18, United States Code, Section 2256. The file name and the description of 3 child pornography files downloaded from IP address 73.32.170.41 are given below:
  - a) **Adry cucumber.MTS thumbs [2014.05.19 21.11.09].jpg** – This is a contact sheet containing a total of 12 images, depicting a nude minor female, who appears to be under the age of 14. The minor female can be seen contacting her genitals with a cucumber.
  - b) **Adry Play With Dely and Dad (4).MTS thumbs [2014.05.19 21.58.04].jpg** – This is a contact sheet containing a total of 4 images, depicting two minor females, both of whom appear to be under the age of 14. One of the images depicts one minor female being orally

penetrated by an adult male's penis.

- c) AdryBlowjob2(1).MTS thumbs [2014.05.19 21.03.59].jpg – This is a contact sheet containing a total of 12 images, depicting a nude minor female, who appears to be under the age of 14, and a nude adult male. In several of the images, the minor female can be seen kissing the adult male while one of her hands is placed on the adult male's penis. Another one of the images depict the same minor female being orally penetrated by an adult male's penis.

7. SA Guerra determined that the IP address 73.32.170.41 is registered to the Internet Service Provider (ISP) Comcast Communications. On June 19, 2019, Comcast Communications responded to an administrative subpoena and provided account information for IP address 73.32.170.41 assigned during the undercover session conducted by SA Guerra. The account information provided by Comcast Communications is as follows:

Subscriber Name: Miguel Rivera  
Service Address: 7222 Bellerive Dr  
APT 1907  
Houston, TX 77036  
Telephone #: 713-295-9860  
Status: Active  
E-mail User IDs: mar537


8. On August 30, 2019, FBI Houston executed a federal search warrant at the residence located at 7222 Bellerive Drive, Apartment Number 1907, Houston, Texas. During the execution of the warrant, law enforcement made contact with Miguel Angel RIVERA, hereinafter referred to as "RIVERA." RIVERA was subsequently interviewed by SA Guerra and SA Michael Whitmire. After being advised of his *Miranda Rights*, which he stated he understood, RIVERA agreed to make a statement
9. RIVERA advised the interviewing agents that child pornography would be found on

his laptop as well as an external hard drive, both of which were located in his bedroom. RIVERA admitted to using the BitTorrent program to locate and download child pornography images and videos. RIVERA stated he understood that files don't just download on their own, he had to select which files to download via the BitTorrent program. RIVERA stated he had downloaded child pornography as recently as a few days prior to the execution of the search warrant. RIVERA stated he used the term "pthc" to find files depicting child pornography via the BitTorrent program.

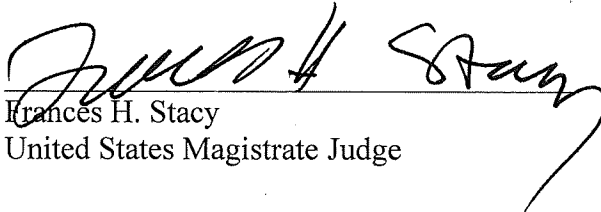
10. RIVERA stated he knew child pornography was illegal, but stated his interest in child pornography started as "research" on why the material was so readily available on the Internet. During the interview, RIVERA was shown several screen shots depicting several videos to include those described in paragraph 6. Rivera stated he recognized the screenshots shown to him as files he had downloaded via BitTorrent. RIVERA stated he knew he had made a mistake, but that it was never his intent to harm a child.
11. SA Guerra has begun a review of the items seized pursuant to the search warrant executed at Rivera's residence on August 30, 2019, and has found at least 10 video files depicting child pornography. Several of the videos depict minor females, who appear to be under that age of 12, being orally and vaginally penetrated by an adult male's penis. Based on my training and experience the files found on RIVERA's devices meet the federal definition of child pornography as defined by Title 18, United States Code, Section 2256.

**CONCLUSION**

12. Based on all information set forth above, your Affiant believes there is probable cause to believe that on or about August 29, 2019, Miguel Angel RIVERA, was in violation of Title 18 U.S.C. § 2252A(a)(2) by receiving child pornography, via the BitTorrent network, also that on or about August 30, 2019, RIVERA was in violation of Title 18 U.S.C. § 2252A(a)(5)(B) by possessing child pornography material found on devices which were seized pursuant to the search warrant executed at 7222 Bellerive Drive, Apartment Number 1907, Houston, Texas on said date.

  
Robert J. Guerra  
Special Agent, FBI

Subscribed and sworn before me this 21 day of October 2019, and I find probable cause.

  
Frances H. Stacy  
United States Magistrate Judge